

Agenda
TIFA Committee Meeting
July 30, 2002

- 9:30 - 9:45 Opening Remarks
 Senator Mary Margaret Haugen, Co-Chair
 Representative Fred Jarrett, Co-Chair
- 9:45 - 10:30 Alternative Approaches to Financing Transportation Infrastructure
 Hugh Spitzer, Esq., Foster Pepper, Shefelman, PLLC
- 10:30 - 11:15 Economics of Pricing Transportation
 Randall Pozdena, Managing Director, ECONorthwest
- 11:15 - 11:30 Break
- 11:30 - 12:30 Dupont Interchange: Case Study in Private Financing/Development
 Tom Miller, President, Weyerhaeuser Real Estate Development Company
- 12:30 - 1:15 Lunch (Sandwich Buffet)
 Public-Private Initiatives in Transportation Program
 Representative Ruth Fisher, Chair, House Transportation Committee
 Jerry Ellis, Director, Transportation Economic Partnerships
- 1:15 - 1:45 Partnerships for Capital Development
 Gene Schlatter, Advisor to Vulcan, Inc.
- 1:45 - 2:30 Committee Discussion

LEGISLATIVE
OVERSIGHT
COMMITTEE



TRANSPORTATION
INFRASTRUCTURE
FINANCING
ALTERNATIVES

OVERVIEW OF THE PUBLIC-PRIVATE INITIATIVES PROGRAM

Report to the Legislative Oversight Committee

Washington State Department of Transportation
Transportation Economic Partnerships Office
July 2002

INTRODUCTION

The report was prepared at the request of the Legislative Oversight Committee on Transportation Infrastructure Financing Alternatives (TIFA). It is a compilation of:

- A chronicle of significant events in implementing the Public Private Initiatives in Transportation Act (RCW 47.46);
- A summary of the law, including legislative amendments in 1995, 1996 and 2002; and
- A brief description of each project proposed under the program in 1994.

Further Information about this program may be obtained by contacting:

Transportation Economic Partnerships Office
PO Box 47395
Olympia, WA 98504-7395

Phone number: (360) 664-2900

PUBLIC-PRIVATE INITIATIVES PROGRAM CHRONOLGY OF SIGNIFICANT PROGRAM EVENTS

1991 The State Transportation Commission recommends to the 1992 Legislature that Washington State should formalize and expand its leadership role in promoting public-private partnerships at every government level.

1992 The State Transportation Commission recommends to the 1993 Legislature that WSDOT be authorized a program to allow it to pursue public-private initiatives for transportation capital improvements.

1993 HB 1006 is introduced by Representative Ruth Fisher and 22 other legislators from the four caucuses of the House of Representatives and the Senate. The Legislature unanimously approves the bill and Governor Lowry signs into law the Public-Private Initiatives (PPI) Transportation Act (RCW 47.46). WSDOT mobilized legal, financial and expert resources to implement the new law. An office was created within the Department and charged with its successful implementation. An external Advisory Committee was created to guide the development of the request for proposal process and to develop short and long term evaluation measures. A "WSDOT 1006 Team" of engineering, legal and financial experts was assembled to create the procurement process.

1994 HB 2909 is introduced by Representative Ruth Fisher and the Legislature unanimously approves the creation of a revolving fund to provide state grants and loans for PPI projects. They also authorize \$25 million of general obligation bonds to provide state financial participation for potential PPI projects. WSDOT issues a worldwide request for proposals to private companies to submit conceptual project proposals. The Request for Proposals (RFP) outlines the state requirements for the project proponents, including a payment of a \$35,000 fee for each proposal. Fourteen conceptual project proposals from private companies were submitted representing over \$6 billion in transportation infrastructure improvements. (See proposal descriptions.) The Project Review Board, whose members were the Deputy State Treasurer, the Director of Department of Revenue and the WSDOT Deputy Secretary for Operations selected six projects. The six selected proposals were approved by the State Transportation Commission to proceed with agreement negotiations. The six projects were: 1) SR 18 Corridor between I-5 and I-90; 2) SR 520 including the Evergreen Point Bridge; 3) Puget Sound Congestion Pricing Project; 4) SR 522 from Woodinville to Monroe; 5) King County Park and Ride Capacity Improvements; and 6) SR 16/Tacoma Narrows. A seventh project proposed by the Seattle Transportation Group involving the Alaskan Way Viaduct was given a placeholder status.

Negotiations of public-private agreements began on all six projects. The SR 18 Corridor project was dropped from further consideration by WSDOT due to a lack of public involvement by the private company and little or no public support in the affected project area.

1995 Numerous bills are introduced by members of the Legislature following the identification of projects to be developed under the PPI Act. 3ESHB 1317, sponsored by Representative Eric Robertson was enacted on the last day of the 3rd special session and signed into law by Governor Lowry. This bill requires that prior to executing a PPI agreement, WSDOT must conduct a public advisory election if there is opposition to a project, evidenced by the submission of petitions bearing 5,000 signatures. The amendments set forth the process to carry out an advisory election including the creation of a boundary and a Local Involvement Committee. A new process to replace any projects under the program is created. One project, the Puget Sound Congestion Pricing Program is prohibited from further implementation until there is legislative approval.

Project agreement negotiations were suspended while the Legislature debated the 1995 amendments. Following Governor Lowry's signature on 3ESHB 1317, WSDOT received qualifying citizen petitions on three of the proposed projects: SR 520 Evergreen Point Bridge; SR 16/Tacoma Narrows; and SR 522. An administrative rule was created to implement the advisory election requirements for these projects. WSDOT withdrew its application for federal congestion pricing funds in response to the new legislation.

The sixth project, King County Park and Ride Capacity Improvements did not have demonstrated public opposition and the Department proceeded with executing agreements with the private developer, the Perini Corporation and King County, to conduct the Phase I feasibility studies. The Legislature provided \$2 million as the state's contribution to paying for the studies.

1996 An ESSB 6753 amends the PPI Act and requires that before WSDOT conducts an advisory election on a PPI project, the Legislature must authorize funding for environmental and engineering studies, public involvement activities and to pay for the regional advisory election. The Legislature appropriates approximately \$11 million for only the Tacoma Narrows Bridge Project. The Legislature further modified the program to require that the projects subject to advisory elections must have legislative appropriations to conduct public involvement, engineering, and environmental work under the State Environmental Policy Act (SEPA) and the National Environmental Policy Act (NEPA), if applicable; to define the preferred alternative project before an advisory election could be held. The Department was also authorized to contract with the project developer to conduct the required studies leading to the selection of the preferred alternative.

Since no funding for the required studies was appropriated for the SR 520 and SR 522 projects, the election boundary studies were discontinued on these projects and the project developers terminated their project proposals.

1997 The feasibility study for the WSDOT/Perini/King County Park and Ride project recommended capacity and security improvements to eight high capacity park and ride lots, located in the I-5, I-90, and I-405 corridors. The estimated cost of construction was \$82 million for all of the lots and the financing plan involved tax-exempt debt financing with debt service paid by annual appropriations of King County and operation costs paid by the imposition of a 50 cent parking charge at the improved lots. The King County Executive and Council did not

approve advancing the project to the second stage of financing, design and construction due to concerns about imposing a parking fee and concerns about debt financing for the capital improvements. Having completed the Stage 1 feasibility work, the project was terminated by WSDOT and Perini Corporation.

United Infrastructure Washington is contracted by WSDOT to conduct a Major Investment Study for the SR16/Tacoma Narrows Bridge corridor. Twenty-two multi modal alternatives were analyzed and four alternatives were advanced for further analysis in the Draft Environmental Impact Statement. The first financial feasibility tests were conducted on various alternatives to indicate a range of required toll levels.

An initial voter boundary was proposed in the affected project area and hearings were held in the seven county area. A 55 member Local Involvement Committee, created by the 1995 legislative amendments, was convened and unanimously approved the voting boundary.

1998 The Legislature enacts SHB 3015 amending the PPI Act to provide sales tax deferrals and limited tax exemptions for the Tacoma Narrows Bridge project. At the time, the effect of this action amounted to over \$74 million in tax relief for future toll payers. WSDOT announces the preferred alternative to reduce congestion and improve safety is to construct a new suspension bridge parallel to the existing Tacoma Narrows Bridge and to add a HOV lane in each direction on the SR 16 corridor. A maximum initial roundtrip toll is set at \$3.00. Fifty million dollars in state funds are authorized to support design and construction of roadway improvements leading to the bridges, a new interchange on the Gig Harbor side of the bridge and seismic retrofit of the existing Tacoma Narrows Bridge. A project description and ballot title is prepared for the November general election. The project receives 53 percent public support for going forward with the public-private projects. The Secretary of Transportation announces his decision to proceed with the project and agreement negotiations commence again between the private company, United Infrastructure Washington (UIW) and WSDOT.

1999 The Legislature authorizes \$50 million state funding as a state funding contribution to the Tacoma Narrows Bridge Project. WSDOT and UIW execute the "Agreement to Finance, Develop and Operate the Tacoma Narrows Bridge" project. UIW assumes responsibilities for project development, permitting, public involvement and financing. Negotiations begin on the Design-Build Agreement, Management Services Agreements, Operations Agreements and other key contracts necessary to implement the project.

2000 USDOT approves the project eligible for federal loans and credit assistance. Governor Locke approves the issuance of \$800 million in privately issued tax-exempt debt for the project. The Tacoma Narrows Bridge Nonprofit Corporation is formed with citizens from the affected project area. The TNBNC is responsible for setting the tolls at sufficient levels to cover debt service and other project costs. Project financing plans are finalized for end of the year financial closing. The State Supreme Court rules that state laws conflict on the issue of imposing tolls on the existing Tacoma Narrows Bridge.

2001 A Record of Decision is issued by Federal Highway Administration following completion of the Final Environmental Impact Statement. Twenty-two state, federal and local permits are obtained. Right-of-Way is purchased. Initial Design is complete and the parties agree to a fixed-price for construction. The final financing documents are prepared. SB 5130, sponsored by Senator Bob Oke and others, correcting the conflicting state statutes is passed three times by the Senate, but the House refuses to hear the bill before sine die in the second special session. Work on Tacoma Narrows Bridge is put on stand down pending resolution of the Supreme Court decision in the 2002 legislative session.

2002 The state takes over the financing of the Tacoma Narrows Bridge project and the management of construction and operations. UIW is reimbursed \$30 million for their costs to develop the project to date and another \$10 million upon completion of design-build agreement negotiations. WSDOT and the design builder executed a design-build contract in July. The Legislature provides for a study of barriers to public-private partnerships in the 2002 Transportation Supplemental Budget.

SUMMARY OF PROVISIONS OF RCW 47.46

(As amended in 1995 and 1996 and 2002)

LEGISLATIVE INTENT

- Provide benefits to both the public and private sectors.
- Provide a sound economic investment opportunity for the private sector.
- Provide the state with increased access to project development and financing opportunities.
- Supplement state's transportation revenues, allowing user fees and tolls, thereby allowing the state to use its limited resources for other needed projects.
- Encourage and promote business and employment opportunities for Washington State citizens.
- Implement the program in cooperation, consultation, and with the support of the affected communities and local jurisdictions.
- Test the feasibility of building privately funded transportation systems and facilities through the use of innovative agreements with the private sector.
- Encourage the WSDOT to take advantage of opportunities provided under section 1012 of ISTEA for federal participation in construction or improvement of publicly or privately owned toll roads, bridges, and tunnels.

PROJECT SELECTION AND PROHIBITION ON NEW PROJECTS

- The Secretary of the Department of Transportation is:
 - Permitted and encouraged to test the feasibility of building privately funded transportation projects;
 - Vested with the authority to solicit, evaluate, negotiate and administer public-private agreements;
 - Directed to solicit proposals from private entities to study, plan, design, finance, construct, operate, and maintain any transportation related capital improvements; and
 - Allowed to select up to six projects to be developed under the program.
- Capital improvements are defined to include capital-related improvements and additions to the state's transportation infrastructure, including but not limited to highways, roads, bridges, vehicles, and equipment; marine related facilities, vehicles, and equipment; park and ride lots, transit stations, and equipment; transportation management systems; and other transportation related investments.
- If the public or private sectors terminate project proposals selected prior to September 1, 1994, the Department is prohibited from selecting any new projects, including ones that had been initially considered in the solicitation and those that had a placeholder status after June 16, 1995 until June 30, 1997.

- A program and fiscal audit of the public-private initiatives program is required for the biennium ending June 30, 1997. The Department is required to submit a program and fiscal audit progress report by June 30, 1996, with preliminary and final audit reports due December 1, 1996 and June 30, 1997, respectively.

REPLACEMENT PROJECTS

- The Department must submit a proposed public involvement plan to the 1997 Legislature identifying the process for selecting new potential projects and the associated costs of implementing the plan. The Legislature must adopt the plan before the Department may proceed with any activity related to project identification and selection.
- The public involvement plan for projects selected after June 30, 1997, shall, at a minimum, identify projects that:
 - Have the potential of achieving overall public support among users of the projects, residents of communities in the vicinity of the projects, and residents of communities impacted by the projects;
 - Meet a state transportation need;
 - Provide a significant state benefit; and
 - Provide competition among proposers and maximum cost benefits to users.
- Prospective projects may be identified by the Department or by the private sector.
- Projects that meet the minimum criteria are submitted to the Washington State Transportation Commission for its review. The Commission will then submit a list of eligible projects to the LTC for its consideration. After 45 days of LTC review, WSDOT may solicit proposals for the eligible project.

ADVISORY ELECTION REQUIREMENTS

- Prior to entering into agreements, any project proposal selected before September 1, 1994 or after June 30, 1997 is subject to an advisory vote if there is public opposition to the project as demonstrated by the submission of original petitions bearing at least 5,000 signatures of individuals opposing the project.
 - For projects selected before September 1, 1994, this provision applies to petitions submitted after September 1, 1994, and by 30 calendar days after June 16, 1995.
 - For projects selected after June 30, 1997, this provision applies to petitions submitted within 90 calendar days after project selection.
- Projects with demonstrated public opposition must have an advisory vote on the preferred alternative identified under the requirements of SEPA and, if applicable, NEPA.
- The advisory vote process is subject to the appropriation of funds by the Legislature for environmental impact studies, a public involvement program, local involvement committee activities, traffic and economic impact analyses, engineering and technical studies, and the costs of the advisory election.

- WSDOT may contract with the private developer of a project proposal to conduct the public involvement, engineering, and environmental impact statement for a project that meets the requirements for an advisory election.

ESTABLISHING THE BOUNDARY FOR ADVISORY ELECTION

- The Department must conduct comprehensive traffic and economic studies to define the geographical boundary of the project area that is affected by the imposition of tolls or user fees under a public-private initiatives project. The affected project area shall be established by conducting studies and analyses which, at a minimum:
 - Compare the estimated percentage of residents of communities in the vicinity of the project and in other communities impacted by the project that could be subject to tolls or user fees;
 - Analyze the estimated percentage of other users and transient traffic that could be affected;
 - Analyze the anticipated traffic diversion patterns;
 - Analyze the potential economic impact of tolls or user fees on the price of goods and services; and,
 - Analyze the relationship of the project to state transportation needs and benefits.
- There is a minimum 30-day public comment period on the geographical boundary and consultation with the Local Involvement Committee before WSDOT establishes the final voting boundary.

LOCAL INVOLVEMENT COMMITTEE (LIC)

- After determining an initial affected project area boundary, the Department will establish a Local Involvement Committee to advise the Department on all matters related to the execution of the advisory vote. Committee members serve without reimbursement from the Department.

LIC MEMBERSHIP

- The LIC shall consist of the following members:
 - One elected official from each city and county within the affected project area who are appointed by their respective legislative bodies;
 - Two persons from each county who represent organizations formed to support the project and two persons from each county who represent organizations formed to oppose the project. The county jurisdiction validates these organizations and appoints the members; and;
 - Four public members active in statewide transportation organizations who are appointed by the Governor.
- Vacancies on the LIC shall be filled in the same manner as original appointments. In the event committee makeup results in an even number of members, an additional elected official shall be appointed from the county in which all or the greatest portion of the project is located.

PROJECT DESCRIPTION

- The Department, in consultation with the LIC, will develop a project description for the advisory election. The Department must publish the project proposal description in newspapers of general circulation in the affected project area for seven calendar days. Fourteen days after that, a copy of the map and the project description is forwarded to the county auditor.

ADVISORY ELECTION

- The county auditor verifies the precincts and prepares the text describing the affected project area and the project description for the voters' pamphlet.
- The county auditor will set an election date for the ballot proposition authorizing the imposition of tolls or user fees to implement the proposed project within the affected project area.
- The election must be at the next general election unless the Department requests a special election for a date authorized in statute.
- WSDOT pays for the cost of the election, and the preparation and distribution of the voters' pamphlet.

AGREEMENTS

- The Department may not enter into public-private agreements until after an advisory election unless there is no demonstrated opposition to a project as evidenced by the submission of petitions bearing the names of 5,000 signatures.
- Public-private agreements do not bestow on private entities an immediate right to construct and operate the proposed transportation facility. Rather, the agreements grant to private entities the opportunity to try and design the proposed facilities, demonstrate public support and complete the planning required in order to obtain a future decision by WSDOT and other agencies on whether the project should be built.
- Agreements establish the conditions under which the private developer may secure the necessary governmental approvals; create a framework to attract the private capital; ensure that the facilities will be designed, constructed, and operated in accordance with applicable local, regional, state, and federal laws and standards; and require that the proposed project has the support of the affected communities and local jurisdictions.
- The agreements require that the projects be designed, constructed, and operated in compliance with all applicable rules, regulations and statutes.
- The Department may consult with legal, financial, and other experts within and outside state government in the negotiation of agreements.
- Agreements provide for private ownership during construction phases. Upon completion and final acceptance of each project, the agreement shall provide for state ownership of the project unless the state elects to provide for private ownership during the term of the agreement. The state may lease the facilities for operating purposes for up to 50 years.

STATE ASSISTANCE TO PRIVATE ENTITY

- The agreement may include provisions allowing WSDOT to:
 - Lease facilities, rights of way, and airspace;
 - Exercise its power of eminent domain;
 - Grant development rights and opportunities;
 - Grant easements and rights of access;
 - Issue permits and other authorizations;
 - Protect facilities from competition;
 - Provide remedies in the case of default of either party;
 - Grant contractual and real property rights; and
 - Negotiate acquisition of rights of way in excess of appraised value.

PUBLIC INVOLVEMENT REQUIREMENTS IN AGREEMENTS

- Agreements provide for public involvement in decision making with respect to the project. The state will require the private entity to seek public participation and to conduct a comprehensive public involvement process that provides users and residents an opportunity to comment upon key issues affecting the project.
- Such issues include alternative sizes and scopes, design, environmental assessment, right of way and access plans, traffic impacts, tolling or user fee strategies and ranges, project cost, construction impacts, facility operation, and any other salient project characteristics.
- If an affected project area has not been previously defined, then the private entity must conduct similar toll impact studies to define a geographic boundary as previously described.
- The agreement may require an advisory vote by users of and residents in the affected project area.
- A local involvement committee must be established by the private entity under the agreement, similar to the composition of the LIC for projects subject to an advisory vote. This LIC committee will advise the Department and the private entity on all issues related to the development and implementation of the public involvement process.
- Progress reports must be provided to the Legislative Transportation Committee on the status of the public involvement process.

FINANCING OF THE PUBLIC-PRIVATE PROJECTS

- WSDOT is encouraged to take advantage of new opportunities provided by federal legislation that allow federal funds and programs to encourage private financing of transportation capital improvements.
- WSDOT may use federal, state, or local funds for the projects.
- After construction, the private entity may lease the facility from the state and charge tolls or user fees. The rate of the toll or fee may be set by the private entity as long as the maximum rate of return is not exceeded.

- The state permits the private entity the opportunity to earn a reasonable rate of return on its investment and a cap for profit must be established in the agreement. The maximum rate of return is to be based upon the project's characteristics and risks. The law does not provide for a guarantee of the rate of return to the private entity.
- Financial incentives may be used to reach safety, performance, and transportation demand management goals.
- Private entities are required to use toll or user fee revenues only for payment of the private entity's capital outlay costs for the project, including project development costs, interest expense, and the costs associated with design, construction, operations, toll collection, maintenance, and administration of the project; to reimburse the state for the cost of the advisory election, the costs of project review and oversight, technical and law enforcement services; and to establish a fund to assure the adequacy of maintenance and a reasonable return on their investment.
- A negotiated agreement cannot extend the term of ownership or lease beyond the period of time required for payment of the capital outlay costs.
- Certain tax exemptions and sales tax deferrals are made available to private entities developing improvements to the SR 16 corridor, including the Tacoma Narrows Bridge.

STATE FINANCING FOR PUBLIC-PRIVATE PROJECTS (HB 2277)

- When the Legislature specifically appropriates funding for a PPI project using proceeds of bonds issued by the state, the agreement entered into by the state must incorporate provisions to use state financing.
- The Secretary of WSDOT must amend existing agreements or execute new agreements to comply with state financing of a project.
- If the Secretary is unable to reach an agreement with other parties on contractual provisions for state financing, the Secretary shall not enter into the agreement, take no action regarding the agreement or exercise the termination provisions, whichever option results in the lowest net cost to the state.
- \$800 million in Referendum 49 bonds are specifically provided for PPI projects.

CITIZEN ADVISORY COMMITTEE

- A citizen advisory committee must be created for any PPI project that imposes tolls for a transportation facility. The Governor must appoint nine members to the committee who are permanent residents of the affected area.
- No toll may be imposed or modified unless the citizen advisory committee has been given 20 days to review and comment on any proposed toll schedule.

TOLL SETTING AUTHORITY

- The Transportation Commission must fix toll rates for any toll bridges built under the PPI Act. Tolls must be fixed at rates sufficient to yield annual revenue equal to operating and maintenance expenses, which includes all redemption and interest payments for the bonds.
- The Transportation Commission must retain toll charges on existing and future facilities until all obligations have been fully paid.
- The Transportation Commission is authorized to increase tolls in excess of the fiscal growth factor.

EVALUATION OF FINANCING

- After issuance of the initial bonds, if the state finance committee finds private financing could result in the issuance of bonds at a lower cost to the toll payers, the state finance committee must recommend that WSDOT execute an agreement for the sale of bonds.
- WSDOT may refinance the bonds with a private entity based on the finance committee's recommendations.

APPROPRIATIONS

- \$750 thousand is appropriated to the Attorney General's office to expedite renegotiation of the contract.
- \$370 million in proceeds from the sale of bonds is appropriated for the 01-03 biennium.

OTHER PROVISIONS

- The Tacoma Narrows Bridge account is created and all toll revenue and bond revenue must be deposited in the account.
- If a proposal is selected for construction under the PPI Act, subsequent agreements to implement the proposal do not require the solicitation of new proposals.
- Tax deferrals for the Tacoma Narrows Bridge project are extended to WSDOT.
- State highway construction funds must only be used for maintenance costs on the existing Tacoma Narrows Bridge.
- Tolls are authorized on the existing Tacoma Narrows bridge when there is an additional toll bridge constructed adjacent to the existing bridge.
- The bill establishes a legislative oversight committee with one member from each caucus to monitor the project, particularly the design-build process.

Selected North American Toll Roads

TABLE 6-4

COMPARATIVE PASSENGER CAR TOLL RATES
ON NORTH AMERICAN TOLL ROADS

Toll Facility	Opening Year	Length (miles)	Passenger Cars Full Length Toll (2001)		2001		Escalated to 2008 by CPI	
			Cash	ETC	Cash	ETC	Cash	ETC
			Rate-per-mile (cents)					
I-15 Express Lanes (CA) -peak toll	1998	8	\$4.00		50.0		61.5	
SR 91 Express Lanes (CA) -peak toll	1996	10	\$4.75		47.5		58.4	
SR 241-Foothill/Eastern Toll Road (CA)	1993	24	\$4.50		18.8		23.1	
E-470 (CO)	1991	34	\$5.75		17.0		20.9	
Proposed Northwest Parkway (CO)	2004	11	\$1.75		15.9		19.6	
San Joaquin Hills Corridor (CA)	1997	17	\$2.50		14.7		18.1	
Toronto 407 (CAN) -peak toll	1997	43	\$6.12	\$4.83	14.2	11.2	17.5	13.8
Proposed Loop 1 Turnpike (TX)	2008	5	\$0.75	\$0.68	15.0	13.5	15.0	13.5
Dulles Greenway (VA)	1995	14	\$1.65	\$1.40	11.8	10.0	14.5	12.3
Proposed SH 130 Turnpike (TX)	2008	48	\$6.00	\$5.40	12.5	11.3	12.5	11.3
OOCEA Southern Connector/GreeneWay (FL)	1990	21	\$2.00	\$ 1.90	9.5	9.0	11.7	11.1
Southern Connector (SC)	2001	16	\$1.50	\$ 1.43	9.4	8.9	11.6	10.9
Proposed SH 45 Turnpike (TX)	2008	13	\$1.50	\$1.35	11.5	10.4	11.5	10.4
Western Beltway - Part A (FL)	2000	11	\$1.00	\$ 0.95	9.1	8.6	11.2	10.6
Georgia 400	1993	6	\$0.50		8.3		10.2	
Sawgrass Expressway (FL)*	1990	23	\$1.50	\$ 1.35	6.5	5.9	8.0	7.3

Notes

* Acquired by FDOT

**TIFA Committee Meeting:
Alternative Approaches to Financing Transportation Infrastructure
Hugh Spitzer, Foster Pepper & Shefelman PLLC
July 30, 2002**

- (1) The difference between delivery of governmental services through general government and through utilities
 - Three types of governmental powers
 - The shift from general government to enterprises (e.g., water, sewer, garbage and transit—and in the East, road & bridge services such as the Triborough Bridge Authority (1934))
- (2) Organization of transportation systems as utilities (in both the transit and highway/road context)
 - Utilities as “closed sets” or “fortresses” with special funds
 - The Accountancy Act (Ch. 43.09 RCW) and fund protection
 - Rates versus Taxes (see attached chart)
 - The 18th Amendment: The Motor Vehicle Fuel Tax is not a tax (it’s a rate disguised as a tax!)
- (3) Toll/rate setting in the context of the “Covell” case, which in 1995 threw out Seattle’s street utility: keeping charges as charges, taxes as taxes
- (4) Organization of utilities as “separate systems” versus organization as larger “enterprises”
 - The enterprise: water systems as an example
 - The “combined system”: a multiple activity enterprise such as water/sewer storm water, or highways/bridges/ferries
 - The “separate system”: stand alone dams (or bridges or highways)
- (5) Governmental finance *versus* nonprofit corporations *versus* for-profit enterprise for individual facilities or for entire systems
 - Traditional governmental approach: public finance, public procurement, public management, public rate-setting (Frank Chopp’s preferred approach)
 - For-profit entities: substantial flexibility, *perhaps* large cost savings, but currently the numbers don’t seem to work for private ownership & operation over the long term

- Non-profit corporations: a hybrid approach with more design/build flexibility, single-focus entity, same tax-exempt finance opportunities, *but* (unavoidably) less accountability during management phase. Rate setting—better bond owner protection, but less accountability as a trade-off. (Studies show non-profits are most cost-effective)
- (6) Practical issues with public-private cooperative arrangements (living with hybrids)
- Understanding the other guy: different motives, different attitudes (and occasionally attributing nasty motives to each other)
 - Keep an eye on risk shifting (consumers usually pay in the end)
 - Bring along your own folks
 - No compromise on police powers, no private eminent domain, and no gifts!

GENERAL CLASSIFICATION OF TAXES, FEES AND USER CHARGES

CLASSIFICATIONS	EXAMPLES	BASIC CHARACTERISTICS	PROTECTIONS	ACCOUNTING
TAXES	Property Taxes, Excise Taxes, Income Taxes, certain license fees	Imposed to raise money for any governmental purpose. No relationship between tax burden and benefit to an individual taxpayer	Express statutory authority always required. Subject to limits, uniformity requirements and other controls on tax levels and allocation of burden among taxpayers.	May be deposited in general fund or any other funds. May be used for any lawful governmental purpose.
USER CHARGES:				
Commodity Charges	Electrical rates, water rates, connection charges, irrigation assessments	Imposed to pay for the provision of commodities or services of direct benefit to consumer.	Commodity charges must be uniform within classes of customers and classes of service. May not exceed allocable share of cost.	Must be deposited in special fund. May not be transferred to general fund or other special funds for purposes of those funds.
Burden Offset Charges	Sewer rates, garbage rates, storm water utility charges, growth impact fees	Imposed to offset cost of handling burdens on others and on public resources ("externalities") caused by payor's activities.	May not exceed payor's allocable share of cost of programs or improvements to handle burdens caused by payor's activities. Must be uniform within classes of service and classes of users. Certain impact fees must be used within certain time periods for identified facilities.	Must be deposited in special fund. May not be transferred to general fund or other special funds. Must be used to pay for program facilities or activities.
Processing and Inspection Fees (True "Regulatory Fees")	Building permit fees, housing inspection fees, professional licensing fees, certain other license fees	Imposed to pay costs of governmental handling of payor's applications or requests, or to pay for inspection and control of payor's activities.	May not exceed allocable share of cost of processing, licensing or inspection and enforcement program.	Must be used to pay for processing or program activities.
Special Assessments	Assessments for local improvement districts, utility local improvement districts, road improvement districts, local utility districts	Imposed on property to offset cost of capital improvements that directly increase the value of that property.	May not exceed increase of value of property ("benefit") from improvement. Must be fairly allocated among all benefited properties.	Must be deposited in special assessment fund or bond fund. May not be transferred to general fund or any other special funds. Must be used for specified improvements.

B-18

The Crucial Role of Pricing in the Reform of Road Finance

Randall J. Pozdena, PhD
<pozdena@portland.econw.com>
ECONorthwest, Inc.
Portland, Oregon

July 30 2002

ECONorthwest
888 SW Fifth Ave
Portland, Oregon 97204
(503) 222 6060

Road Finance at a Crossroads

- The current method of road finance
 - Registration/license fees
 - “Flat rate” gasoline, diesel fuel taxes and bridge tolls
- Problems with this method
 - Obsolescence caused by fuel efficient vehicles, etc.
 - Flat rates cause perceived “mismatch” of who pays, who gets, and encourage “overuse” of expensive capacity
 - Result: Low popular support for rate increases, despite widespread in congestion and apparent need for capacity
- Solution
 - Pricing that varies by vehicle, time, and place of use
 - Corridor-specific finance and investment decisions
 - Simultaneously solves the problem of inefficient use and insufficient funding

ECONorthwest

888 SW Fifth Ave
Portland, Oregon 97204
(503) 222 6060

What is Value Pricing?

- Economists:
 - “The practice of setting road user charges to reflect the specific costs imposed by each user”
- Real people:
 - “A way for people to buy their way out of congestion”
 - “A way to keep traffic flowing at a reasonable speed”
 - “A way to reduce auto use and increase transit use”
 - “A method for financing road improvements and other neat stuff”
 - “A way to reduce the need for new roads”

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Congestion and Value Pricing

- The Congestion Connection
 - A road's performance degrades with increased traffic
 - One more car slows down everyone, imposing delay costs
- Economic inefficiency is the result
 - Some drivers benefit less from their own travel than they impose in delay costs on others = *Inefficiency!*
- Switching to value pricing generates benefits
 - Value pricing alerts drivers to these perverse effects
 - Inefficient travel is reduced, generating economic benefits
 - Produces travel time savings
 - Slows need for spending on new road capacity
 - Provides economic incentive for ride sharing, transit

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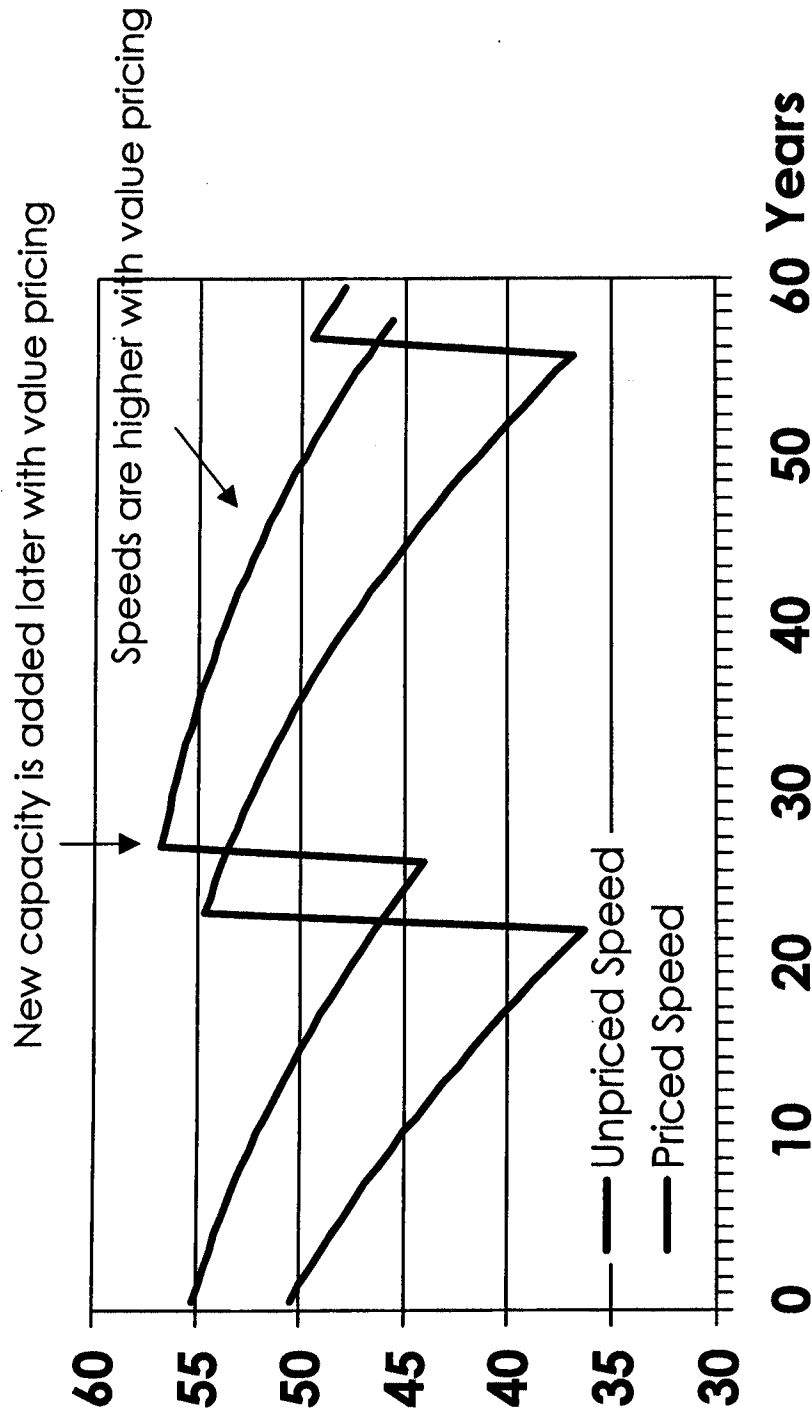
Value Pricing and Road Finance

- Conventional road finance is a death-spiral
 - We levy a low charge on all mileage...
 - ...creating excessive congestion during peak periods
 - The congestion prompts road authorities to build
 - But the charges the public will tolerate cannot cover the costs!
- Value pricing stops the death-spiral
 - Charges are levied selectively on certain vehicle-miles
 - Controls excessive congestion during peak periods
- Value pricing is fairer
 - Revenue is collected from those who burden capacity
 - The revenue to build capacity is there when it is really needed
 - Users pay for their own improvements

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Benefits Come from Higher Speeds, and Lower Spending over Time



(Computer simulation of pricing and investment in a freeway corridor)

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How Much is at Stake?

- Value pricing can recover lost resources
 - Time lost to wasteful congestion
 - The resources lost to building too many roads, to soon, to accommodate low-value users
- Value pricing can restore fiscal balance
 - Containing congestion with pricing reduces need for capacity
 - Value pricing levies are sufficient to finance expansions
- Value pricing could revitalize central locations
 - Discourages long-distance, low-occupancy travel
 - Improves transit's financial viability

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What Would the Fees Be?

- Fees would vary significantly
 - By facility (some types of facilities congest more than others)
 - By time of day (i.e., varying congestion levels)
 - By vehicle weight, size and performance (different wear-and-tear burdens and effects on capacity)
- Typical fee ranges
 - Peak auto fees would be higher than today during congested periods (7 to 60 cents/VMT, vs. 2 to 3 cents/VMT today)
 - But off-peak fees would be **lower** than they are today (mostly zero)
 - So **average** fees per VMT would not change radically from today
 - The benefits of pricing come from the variable pricing **pattern**

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What Would the Fees Be?(cont)

Efficient vs. Current Fees (Oregon State System, in Cents per Mile)

Vehicle Weight Class (lb.)	Annual VMT (b.)	Wear and Tear + Admin	Congestion Fee Range	Total Efficient Fee Range	Efficient Fee	Current Fees
0-8000	31,999	1.1	1.0 2.0	2.1 3.1	2.1	2.1
8001-26000	807	2.3	1.1 2.1	3.4 4.4	4.1	4.1
26001-46000	328	5.5	4.9 9.7	10.3 15.2	8.3	8.3
46001-54000	117	7.0	4.0 8.0	11.0 15.0	10.7	10.7
54001-78000	78	8.4	3.8 7.5	12.2 15.9	13.5	13.5
78001-80000	1,160	10.8	2.0 3.9	12.7 14.7	17.4	17.4
80001-104000	225	12.1	2.6 5.2	14.7 17.3	17.7	17.7
104001-105500	205	12.8	1.5 3.1	14.3 15.8	17.8	17.8
105501- up	2	53.4	2.1 4.2	55.5 57.6	39.2	39.2
	34,920	1.7	1.1 2.2	2.7 3.8	2.9	2.9

Source: ECONorthwest from Oregon HCAS 2000

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What Constitutes Value Pricing?

- The Gold Standard: Ubiquitous, efficient pricing
 - Cost-based, varies by load, vehicle type, facility, VMT
- The Silver Standard: Selective, efficient pricing
 - Only certain facilities or vehicle types are priced
 - Losses from diversion and unpriced travel
- The Bronze Standard: Semi-efficient pricing
 - Parking charges, flat VMT fees, cordon pricing
 - Relatively insensitive to facility type and load
- The Tin Standard: Indirect charges
 - Registration fees, utility fees, SDCs, ramp metering
 - Poor match to actual costs, conditions

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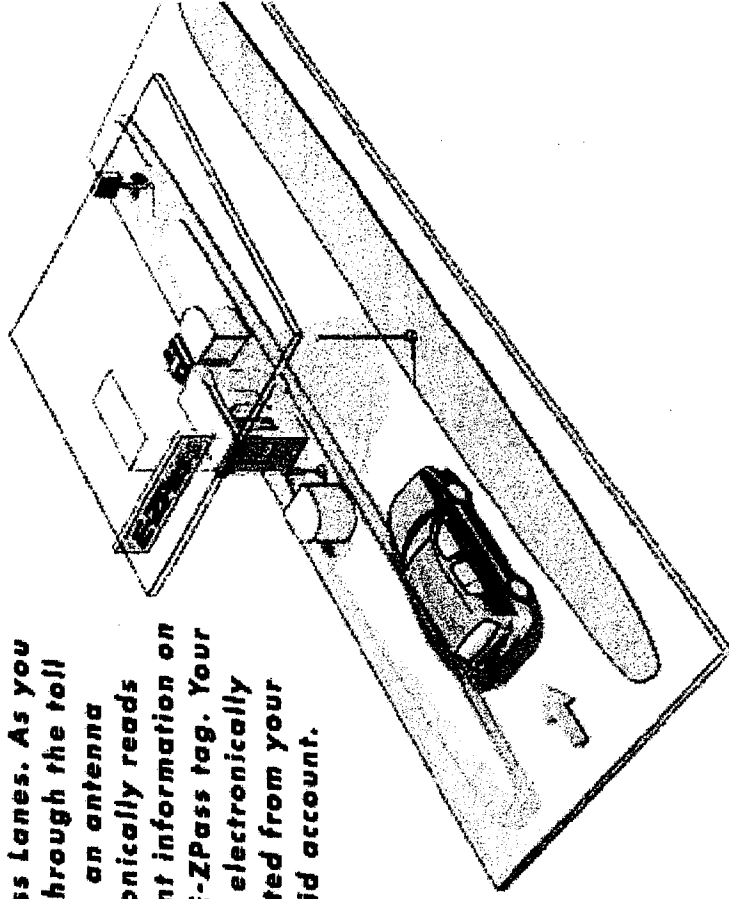
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Getting there...

- Transponder and Gantry systems like EZ-Pass are most widespread



With E-ZPass, paying tolls is convenient. Just use the dedicated E-ZPass Lanes. As you pass through the toll plaza, an antenna electronically reads account information on your E-ZPass tag. Your toll is electronically deducted from your prepaid account.



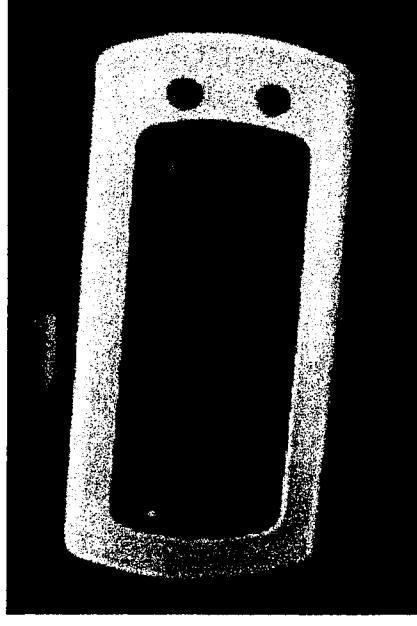
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In-Vehicle Metering

- GPS-linked meter tracks location, debits smart card, and displays travel costs
- Maintains privacy. Only total revenue by road segment is reported to authorities.
- Issues of tamper-proofing, downloading data to be resolved

Danish example ☒



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Revenue Neutrality

- Revenue neutrality aides the transition
 - The Oregon simulations suggest that a new system need not be an additional system
 - Political feasibility is increased if system is used to phase out old finance mechanisms
 - Some capacity “needs” may disappear with pricing
- The Dutch experience is a good example
 - Dutch are phasing out vehicle sales taxes, fuel excise taxes, and other mechanisms
 - Replacing with VMT-charge technology known as the **MobiMeter**
 - The Netherlands is to introduce a system of road use charges, varying per vehicle according to weight, fuel consumption and distance travelled. The total of taxes levied on all road-users together will remain unchanged but the distribution will alter. The government's revenue will not increase. Those who drive more will pay more, and those who drive little will pay less. The motor vehicle tax, a quarter of the purchase tax on passenger cars and motorcycles and the Eurovignet for heavy goods vehicles will lapse. A proportion of the fuel excise will also be included in the kilometre-charge. Provisional calculations indicate that the transition point for passenger vehicles will be around 18,000 kilometres a year. The effects for company cars are to be examined in more detail. The system is expected to be introduced from 2004 onwards by means of the phased installation of 'mobimeters'.
 - <http://www.minvenw.nl/cend/dco/home/data/international/gb/eng1201.html>

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The Final Frontiers

- Value pricing has finally caught on
 - Value pricing has stronger foundations than other options
 - The benefits are being demonstrated unambiguously
 - There are functioning projects in several states, countries
 - There are experiments underway and others in planning
- No real, technological obstacles
 - A real opportunity for a hi-tech region
 - Symbiotic w. vehicle technology (in-vehicle GPS, etc.)
- The problem: public perception
 - Make public aware of the user benefits of value pricing
 - Make policy makers aware of the superior fiscal and traffic management results

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DRIVER FRIENDLY AND EFFICIENT, HIGH-TECH TOLLS CAN SOLVE SEATTLE'S MESS



BY RANDALL
POZDENA
*Special to The
Seattle Times*

*Randall
Pozdena is
managing
director of the
Portland office
of
ECONorthwest,
an economics
and finance
consulting
firm.*

No marketplace can function well if its prices aren't linked to costs. Imagine a supermarket that charged the same flat rate per pound whether shoppers bought lobsters or baking flour. There'd be a constant shortage of high-cost items such as lobsters, and dwindling demand for some lower-cost goods such as flour.

Our highway system uses the same one-price-fits-all approach and thus has exactly those same problems. There is a constant shortage of high-cost services, such as freeway capacity during rush hour, and weak demand for low-cost alternatives such as carpooling.

The current system is incredibly unfair, too. Drivers can't pay just for the portion of the road system they personally use. Rural drivers are convinced they're paying to build expensive urban facilities, while urban users are equally convinced they're paying for little-used rural roads.

By paying for roads with fuel taxes and vehicle-registration fees, commuters haven't the foggiest idea how much it costs to provide them with a space on a busy urban freeway. The cement-truck driver is totally oblivious to how much wear and tear his heavy truck is causing on your local neighborhood street.

There is a solution, a silver bullet if you will. It is tolls, but not what you might be thinking of. I'm not suggesting the traffic-stalling toll booths of yesterday, but a high-tech network using global-positioning satellites, dashboard price displays and "smart" credit cards.

But first, a look at our increasingly obsolete way of financing roads today.

For the past 80 years, fuel taxes and registration fees collected from highway users have paid for most major roads in the United States. The revenue is pooled in state and federal trust funds or highway accounts. High-

way commissions and legislative committees guide the spending of the money for maintenance or new roads.

Over the years, the flaws in this method of financing roads have become embarrassingly clear.

The system seems incapable of keeping up with traffic growth and congestion. The process of picking those lucky projects that do get financing has gotten so politicized, contentious and slow that many voters have simply lost faith that their elected officials will ever get anything done.

Road users are convinced their taxes are always used to pay for the other guy's road.

Voters have responded in a predictable and, frankly, justifiable way. Despite recognizing the need for better maintenance and some new facilities, they are simply saying no to higher highway taxes and fees, lacking confidence that higher taxes will solve their problems.

On top of the fundamental policy problems, the current system looks increasingly like a dead duck, technologically. If we make the transition to electric or fuel-cell cars, for example,

Paying
for roads

Drivers would pay only for the roads they use

what good is a gas tax? Even today, as the fuel efficiency of cars and trucks has improved, fuel-tax revenues have declined on a per-vehicle-mile basis.

To economists, the problems that Washington and other states are having come as no surprise. In fact, these problems are an inevitable consequence of the way we have chosen to price and finance roads.

The first problem with the current system is that it levies essentially a flat, per-mile charge through fuel taxes. But the cost of providing and maintaining a road is not a constant amount per mile. Far from it. It depends a lot on the specific type of vehicle, the cost of developing the particular road, and other factors.

Taxpayers think the system costs too much and is unresponsive to their needs, while users have no idea what their financial impacts on the roadways are. Since there are no useful pricing signals, there is no way for drivers to adjust their behavior to save themselves, or the rest of us, money.

If the system provided price signals, we might choose a different route, a different time of travel, take a bus, use a lighter-weight truck, etc. Or, we might reduce or consolidate the trips we make or ask friends to drive with us to share the cost.

Conceptually, the solution is simple: Give drivers better signals about the costs they impose on the road system.

TOLLS

CONTINUED FROM C 1

In some circumstances, this would mean paying a lot more per mile than the current gas-tax charges. In other circumstances, it would mean paying a lot less. On balance, total costs would not change dramatically. But the clearer signals will lead to behavioral changes that, over time, will lower the cost of providing highway services.

Economists have been advancing these notions for decades. They call these policies variable pricing or road pricing strategies.

The basic way to provide better, more refined pricing signals is through some sort of toll system. Until recently, though, implementing variable pricing was not a very easy thing to do: Old-fashioned tollbooth technology slows up traffic and gobbles up land.

On East Coast and Southern California freeways, "transponder cards" mounted in the windshield are used. Antennas on overhead gantries talk to the "transponder card" to identify the vehicle and record a vehicle's use of the road for later billing purposes.

But the cost of building a statewide or nationwide system of antenna gantries to perform this function would be very high, among other concerns.

The better solution is technology that does not need expensive gantries, that displays to the driver the price of using the road and that keeps all of the billing activity inside the vehicle.

I will call this device the Personal Road Spending meter. Think of it as an in-vehicle equivalent of your home's electric meter or the meter in a taxicab.

Here is how such a system might work. A small electronic device in the vehicle is connected to a Global Positioning System (GPS) antenna and to a price display on the dashboard. The antenna tells the device the time of day and which road the vehicle is using. Unlike the transponder-antenna approach, no information is broadcast outside of the vehicle, maintaining the user's privacy. A memory chip in the device contains the price schedule, which is displayed to the driver. As the driver travels around the region, the "bill" for using the highway system is calculated in the device.

The only information permanently saved in the device is the driver's aggregate mileage and billings on different portions of the road system. This would be downloaded during annual vehicle inspections, or at some other interval. This data will permit spending on roads to be allocated to benefit those who are paying for the roads.

The driver would pay his accumulated bill either through inserting a "smart" credit card or pre-paid cash card in the device.

During a transition period, the driver could be credited for any fuel taxes paid until the gasoline tax or diesel taxes were phased out altogether. Keeping the fuel tax for a while would provide a way to collect from out-of-state users of the system until their state adopts a similar Personal Road Spending meter approach.

The technology is fundamentally simple, and the costs will quickly drop with volume production. Moreover, the GPS antenna component will be built into most future vehicles as part of emergency-vehicle-location strategies. The additional costs of the Personal Road Spending meter are small.

The Minnesota Department of Transportation will be experimenting with the new technology next year. An experiment is already under way in Copenhagen. The Puget Sound Regional Council has proposed a similar study in the Seattle area; it is awaiting word from the Federal Highway Administration on a financing request.

Some effort is involved in abandoning a system with an 80-year history. But there are not many choices, and the advantages of this approach will be well worth the effort.

It would be nice to pay only for what we actually use, and to have real incentives to travel economically. And it would be nice to have one's contributions to highway funds set aside to improve the system for one's own benefit, not someone else's.

Most importantly, it would be nice to get going again.

Value pricing and the future

Randall Pozdena is scheduled to speak at a conference, "Imagining Our Transportation Future, the Role of Value Pricing and Innovative Financing in Shaping Our Region," May 29 at the Bellevue Club Hotel. For information about the conference or to register, call 612-625-8575.

PLEASE SEE *Tolls* ON C 3

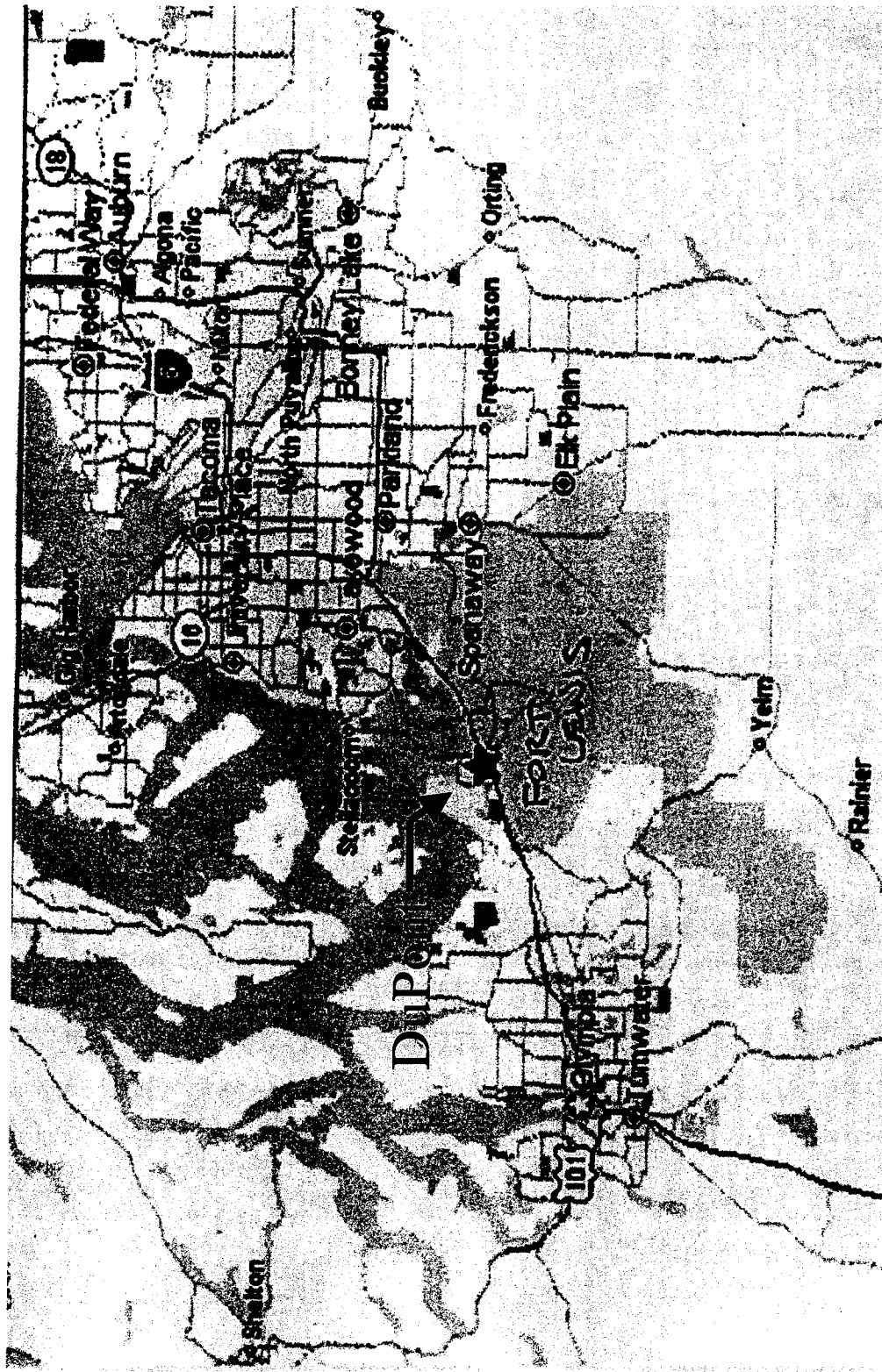
I-5 Interchange at Northwest Landing

Tom Miller
President, Weyerhaeuser Real Estate Development Company
July 30, 2002

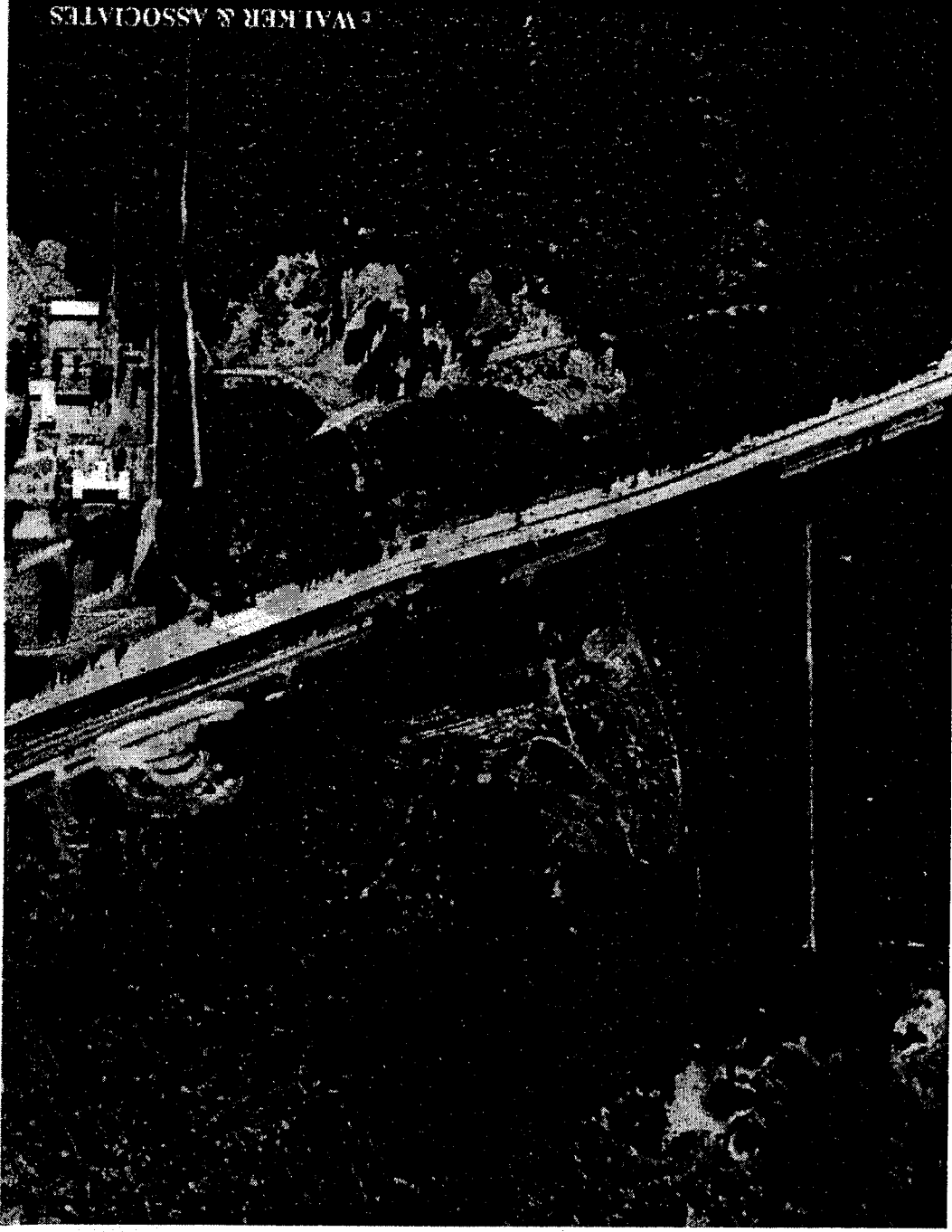
Agenda

- Background and history of the DuPont Interchange project.
- Observations on how the Public-Private Partnership for the DuPont Interchange was executed.
- Key learnings.

Location Map

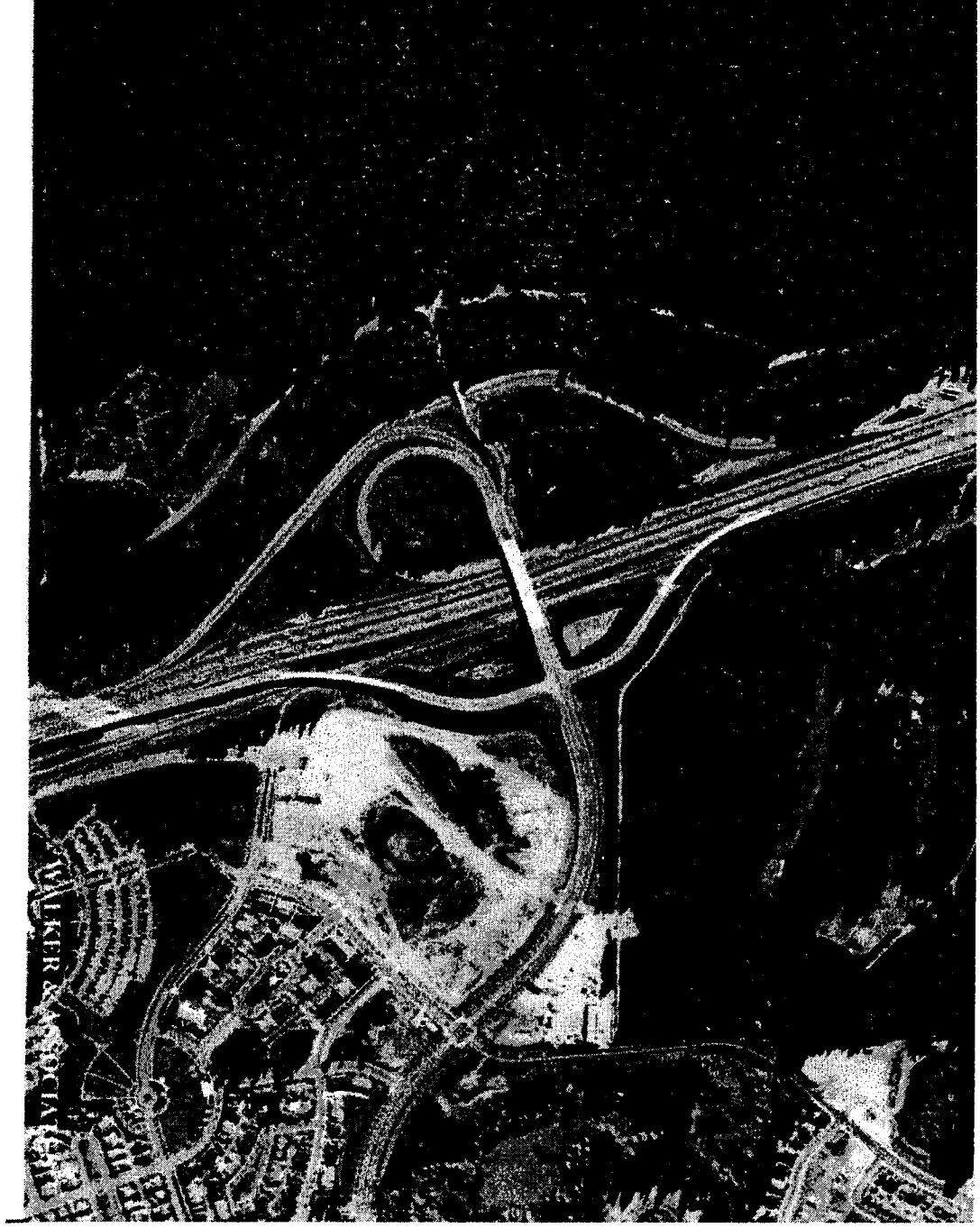


Interchange Site - 1992



B-39

Interchange Site - 2000



B-40

Project History

- Land acquired by Weyerhaeuser for an export facility in the late 70's.
- In the 80's, focus switched to real estate development, gravel extraction and cooperative site clean-up with the DuPont Corporation
- Development planned as a Master Planned Community:
 - Comprehensive Planned Means of Accommodating Growth
 - Northwest Landing - encompasses 3,600 Acres
 - Self-Supporting Community
 - Residential
 - Office
 - Retail
 - Commercial
 - Public
 - Recreational
 - Open Space
 - Industrial
- Supported by State and Local Legislation

Project History (cont.)

- Early sale to State Farm.
- Intel selected N.W. Landing for a manufacturing facility conditioned on increased access - parkway and interchange.
- Today, N.W. Landing has significant residential development.
 - 1000+ new homes and increased population of 2,800.
- However, the original vision of ‘living and working’ in DuPont has not materialized.
- Commercial/Industrial momentum slow

DuPont Interchange Partnership

- Prompted by Intel's interest in locating in Washington.
- Intel's interest in Northwest Landing was subject to the DuPont interchange being built.
- Decision was made to build interchange.
- State was only able to help if the funding was provided by Weyerhaeuser - \$18-20 million dollars; Weyerhaeuser agreed to fund.
- State designed, prepared bid documents, awarded construction contracts and managed the project.
- Fort Lewis exchanged land for the location of the interchange.

Project Administration

- We were nervous about public administration of our dollars
- Project was run flawlessly:
 - WSDOT adopted a sense of accountability of our dollars
 - Communicated well
 - Competent in all aspects of planning, engineering and project execution
 - Very safety conscious
- Interchange was completed ahead-of-time, on budget and with no serious safety incidents
- We had similar experience with Pierce County Utilities on Sewer Pump Station and line to Chambers Creek Treatment Plant

Key Learnings

- WSDOT's execution and performance were excellent.
- Time has shown that some of Weyerhaeuser's assumptions did not materialize:
 - Return on investment - very challenging with the high initial investment in the interchange.
 - Master Planned Community concept is difficult to financially execute with this large front end cost.
 - Intel did not attract the “satellite” businesses and residential demand that were originally anticipated.
 - Makes it difficult to justify the large up-front *private* investment in transportation infrastructure to attract major employers.

Summary

- WSDOT executed the partnership flawlessly.
 - The state has the ability to be an excellent partner and manager of partner resources.
- Challenge will be to find partnerships grounded in sound economics that share risks between the partners.
 - In hindsight, more sharing of risk between the state and Weyerhaeuser at DuPont would have been helpful. Examples include:
 - cost sharing.
 - cost reimbursement over time.
 - combination of financing options to share risk.

Project Absorption

